

§ 382.17

§ 382.17 May carriers limit the number of passengers with a disability on a flight?

As a carrier, you must not limit the number of passengers with a disability who travel on a flight. (See also § 382.27(c)(6) of this part.)

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§ 382.19 May carriers refuse to provide transportation on the basis of disability?

(a) As a carrier, you must not refuse to provide transportation to a passenger with a disability on the basis of his or her disability, except as specifically permitted by this part.

(b) You must not refuse to provide transportation to a passenger with a disability because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers.

(c) You may refuse to provide transportation to any passenger on the basis of safety, as provided in 49 U.S.C. 44902 or 14 CFR 121.533, or to any passenger whose carriage would violate FAA or TSA requirements or applicable requirements of a foreign government.

(1) You can determine that there is a disability-related safety basis for refusing to provide transportation to a passenger with a disability if you are able to demonstrate that the passenger poses a direct threat (see definition in § 382.3). In determining whether an individual poses a direct threat, you must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

(i) The nature, duration, and severity of the risk;

(ii) The probability that the potential harm to the health and safety of others will actually occur; and

(iii) Whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

(2) If you determine that the passenger does pose a direct threat, you must select the least restrictive response from the point of view of the passenger, consistent with protecting

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the health and safety of others. For example, you must not refuse transportation to the passenger if you can protect the health and safety of others by means short of a refusal.

(3) In exercising this authority, you must not act inconsistently with the provisions of this part.

(4) If your actions are inconsistent with any of the provisions of this part, you are subject to enforcement action under Subpart K of this part.

(d) If you refuse to provide transportation to a passenger on his or her originally-scheduled flight on a basis relating to the individual's disability, you must provide to the person a written statement of the reason for the refusal. This statement must include the specific basis for the carrier's opinion that the refusal meets the standards of paragraph (c) of this section or is otherwise specifically permitted by this part. You must provide this written statement to the person within 10 calendar days of the refusal of transportation.

§ 382.21 May carriers limit access to transportation on the basis that a passenger has a communicable disease or other medical condition?

(a) You must not do any of the following things on the basis that a passenger has a communicable disease or infection, unless you determine that the passenger's condition poses a direct threat:

(1) Refuse to provide transportation to the passenger;

(2) Delay the passenger's transportation (e.g., require the passenger to take a later flight);

(3) Impose on the passenger any condition, restriction, or requirement not imposed on other passengers; or

(4) Require the passenger to provide a medical certificate.

(b) In assessing whether the passenger's condition poses a direct threat, you must apply the provisions of § 382.19(c)(1)–(2) of this subpart.

(1) In making this assessment, you may rely on directives issued by public health authorities (e.g., the U.S. Centers for Disease Control or Public Health Service; comparable agencies in other countries; the World Health Organization).